THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION No.5138 of 2007

22.3.2007

Between:
Chimata Rama Mohana Rao, S/o.Venkateswara Rao

… Petitioner

AND

The Mandal Revenue Officer, Pamidimukkala Mandal, Krishna District
And others

… Respondents

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION No.5138 of 2007

ORDER:

The petitioner is proprietor of Raviteja Wines. He obtained necessary licence under A.P. Excise Act, 1968, for carrying on the business to sell intoxicant liquor in the premises bearing Door No.194/1 situated in Krishnapuram village of Pamidimukkala Mandal in Krishna District. He alleges that on 09.3.2007, the first respondent herein visited the premises and directed the employees to vacate the shop within one hour. Therefore, he filed the instant writ petition seeking a writ of Mandamus declaring the action of the respondents in trying to evict and dispossess the petitioners as illegal and arbitrary.

At the stage of admission itself, the first respondent filed counter affidavit. The averments in the counter affidavit are as follows. The land admeasuring Acs.0.42 in R.S.No.194/1 situated at Krishnapuram village of Pamidimukkala Mandal in Krishna District was assigned to B.Jacob on 28.11.2002. In violation of conditions of the assignment, he constructed a commercial complex over an extent of Acs.0.19 and let out the same to a bar, a fancy shop, a hotel, a hair-cutting saloon and a tent house. Therefore, action was initiated for cancellation of the assignment. After issuing show cause notice, the Revenue Divisional Officer (RDO) passed orders on 12.5.2005 cancelling the assignment in favour of Jacob and the land was resumed. The assignee preferred appeal before the Joint Collector unsuccessfully and the order of the appellate authority was also confirmed by the Commissioner of Appeals, by order dated 05.1.2007. It is also alleged that the petitioner has no right over the assigned land or the construction made thereon, that the land was resumed and taken possession on 21.6.2006.

Learned Counsel for the petitioner rightly submits that the

counter nowhere denies possession of the petitioner in respect of premises bearing No.194/1 nor denies the allegation that the respondent issued any notice to the petitioner. As seen from the allegations made by the petitioner he is carrying on business in Indian Liquor after obtaining valid licence from the Excise authorities and even if he is in possession of Government land or a construction was made on the Government land only remedy available to the Revenue department to proceed under A.P. Land Encroachment Act, 1905 (the Act, for brevity). Any attempt made by the first respondent to dispossess the petitioner without due process of law would be plainly illegal. Therefore, this Court observes that unless and until due process of law is followed under the Act, the petitioner shall not be evicted from the subject land if he is still in possession of the same.

The writ petition, with the above observations, is accordingly disposed of. No costs.

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March 22, 2007 (**V.V.S.RAO, J**)

NOTE:

Dispatch order copy by 29.3.2007.

(By order)

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